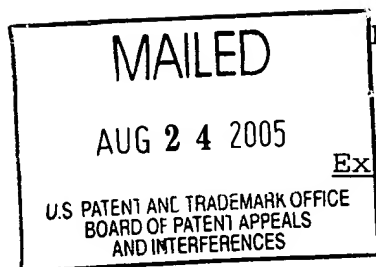


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS DODT, KLAUS KLEINHOFF,
OLIVER SCHURMANN, FRANK GAUTERIN
and IVAR VEIT

Application No. 09/800,477

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 18, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On January 29, 2003, the examiner entered a Final rejection of claims 1-3 and 6-21 under 35 U.S.C. § 112, first and second paragraphs, and claim 6 under 35 U.S.C. § 102(b) as being anticipated by European Patent Application 663,306 (hereinafter "EP '602"). Appellants responded to said Office action by filing an amendment on March 31, 2003. In an Advisory Action mailed on April 21, 2003, the examiner indicated that appellants' amendment filed on March 31, 2003 overcame the 35 U.S.C. § 112, second paragraph, rejection of claims 1-3 and 6-21. However, on

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March 17, 2004, the examiner reopened prosecution rejecting claims 1-3 and 6-21 under 35 U.S.C. § 112, first and second paragraphs, as well as claims 6 and 7 under 35 U.S.C. § 102(b) as anticipated by EP '602.

On June 17, 2004, appellants filed a Request for Reinstatement of Appeal and Supplemental Appeal Brief. On page 12 of the Brief, paragraph F entitled "Issues on Appeal," appellants include the rejection of claims 1-3 and 6-21 under 35 U.S.C. § 112, first and second paragraphs. Moreover, on page 2, section (6) of the Examiner's Answer mailed on April 12, 2005, the examiner states that "appellant's [sic] statement of the issues in the brief is correct." However, in the examiner's grounds of rejection, the examiner does not include the 35 U.S.C. § 112, second paragraph, rejection of claims 1-3 and 6-21. Therefore, it is not clear as to the correct status of this rejection.

Accordingly, it is

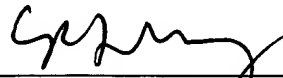
ORDERED that the application is returned to the examiner to clarify for the record the status of 35 U.S.C. §

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112 rejection of claims 1-3 and 6-7, written notification to appellants as to the correct status of this rejection, and for such further action as may be appropriate.

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By:



CRAIG R. FEINBERG
Program and Resource Administrator
(571) 272-9797

cc: Greenblum & Bernstein, PLC
1950 Roland Clarke Place
Reston, VA 20191

CFF/clm/pb